Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Schools and Libraries Universal Service	)	CC Docket No. 02-6
Support Mechanism	)	
	)	
A National Broadband Plan	)	GN Docket No. 09-51
For Our Future	)	

REPLY COMMENTS OF THE
COUNCIL OF THE GREAT CITY SCHOOLS

The Council of the Great City Schools is pleased to submit reply comments to the Notice of Proposed Rulemaking seeking to implement the National Broadband Plan's goals of improving and modernizing the universal service program, as approved by the Federal Communications Commission on May 20, 2010. (CC Docket No. 02-6, FCC 10-83).

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Introduction

The Council of the Great City Schools is pleased to submit reply comments to the Commission to assist with the goal of improving and modernizing the universal service program for schools and libraries. As we described in our original comments, the Council is comprised of 65 of the nation's largest urban school districts: these districts are the intended beneficiaries and the greatest supporters of the E-Rate program. Schools in Council districts enroll the highest number of disadvantaged children, employ the largest number of teachers, and operate in the greatest number of outdated and deteriorating buildings.

Like the Commission, we have read through the original comments submitted in response to the Notice, and have noted quite a few themes. We will use these reply comments to underscore our original positions, and will cite comments from the number of other submissions which echoed our concerns.

Insufficient Funding for the Program

The overwhelming theme is the universal call from commenters – from public and private schools, private companies and program consultants – to raise the E-Rate's cap and add more money to a program that has been underfunded and oversubscribed almost from it's inception. The historic inadequacy of the $2.25 billion cap was best addressed in the comments from the Education and Libraries Networks Coalition (EdLinC), which stated, "…the $2.25 billion funding cap, which resulted from an old and very limited analysis performed by the Commission over a dozen years ago, has proved entirely insufficient as technology has evolved. When the Commission adopted the Joint Board's recommendation of a $2.25 billion funding cap, it noted that the funding cap was not based on any existing similar program with historic funding data. Instead, the Commission relied on various data sources to 'estimate the cost of providing support to schools and libraries.' However, the Commission recognized that the 'utility of these reports is limited insofar as they attempt to estimate costs in an area where technologies are developing rapidly and demand is inherently difficult to predict.'"

The fact that the Commission has proposed to only provide inflationary adjustments *prospectively* was also noted by many commenters, since these increases moving forward would do little in the short term to solve the E-Rate's single largest problem: inadequate funding. According to our calculations, and confirmed by the Commission itself in the National Broadband Plan, an E-Rate program that had been adjusted for inflation routinely between 1997 and 2009 would provide almost $3 billion in funding today. The comments to the Commission's Notice demonstrated a collective agreement that the lack of funding adjustment over the last twelve years must also be a part of any changes made by the Commission. We support those calls, and repeat the general position taken in our original comments: without a significant and tangible increase in E-Rate funding, any updating to the program must be done cautiously and carefully, to ensure the lack of service disruption to the classroom.

<u>Finding Funds through Administrative Improvements</u>

As stated in our comments, we understand the desire to provide more Priority 2 funding to additional applicants. Without additional funding to reach these schools and libraries, however, we disagree with the intention of finding more money from the program by cutting the reimbursements available to the poorest applicants. The discussions regarding large applicants almost seem to suggest that large urban districts have benefitted from the E-Rate program because of loopholes that have been exploited, rather than the fact that these school systems enroll the highest concentrations of the specific students that the program and its rules sought to reach. Punishing these schools and their students because the program has done so successfully is unfair and should not be pursued by the Commission.

One position that we expressed that was shared by other commenters is that unnecessary administrative burdens continue to exist, and that curbing these types of activities can also put additional funds back into the funding pool to help serve classrooms, without sacrificing the reimbursements of the high poverty applicants. The Wisconsin Department of Public Instruction – a state educational agency of a mostly rural state – shared the same perspective in their comments by citing their own submission from multiple years earlier, which said, "…through a myriad of complex rules coupled with a seemingly endless program cycle implementation process, the FCC and the Schools and Libraries Division (SLD) have created a complex program that results in an equally intense and complex oversight process. This complexity leads to applicant frustration and higher-than-necessary administrative costs."

The excessive oversight mentioned in the Wisconsin comments continues to plague the largest applicants. We understand that with the largest programs and the largest reimbursements comes additional scrutiny, but in some cases, the administrative cost involved (for USAC as well as the applicant) in recapturing minimal dollars defies common sense. One such example from the school district in Miami involves a cost allocation request that the district received while the application was still at initial review with PIA.

The total project cost – as requested through the quote included with the FCC Form 471 as an Item 21 Attachment – was for $143,570 for Wireless Services. The item in question was not the full amount, but the calculation of the cost allocation of the housing unit for the ineligible Grounding Kit, which the district had identified and for which a cost allocation had been applied. The amount challenged by the PIA Reviewer was $16.35 – an astonishingly insignificant amount compared to the total cost of the request (i.e. .011%, or one-tenth of one percent of the total project cost).

This type of extreme oversight is not rare for districts in the Council, and addressing these situations would certainly help reach the goal in the NPRM, which discusses the need to reduce aspects of the program that consume resources at both USAC and the Commission, and could result in quicker decisions on funding. The New York City schools – the nation's largest school district and the program's largest applicant – shared a similar sentiment in its comments by saying that, "…true application 'streamlining' takes place when actual administrative hurdles are removed and not simply reformatted or automated. Any real streamlining of the application process must be able to create 'productivity gains.'"

An additional comment regarding administrative improvement was submitted by Funds for Learning (FFL) regarding the underutilization of funding commitments. An analysis by FFL found that funding commitments made before July 1st of a specific funding year have a 75% utilization rate, but later commitments drop by more than half, to 34%. FFL explained there are many reasons for this "dramatic drop," such as a change in the availability of the district's share of funding at the later date and shorter timelines for the district to complete projects and utilize funding. The result in many cases is that districts have to submit multiple applications for the same costs, and this reapplication means redundant efforts and a drain on USAC and applicant resources. As stated by FFL, "In order to increase the under-utilization of the existing fund, the Commission should ensure the timely processing of applications and provide applicants with more flexibility on when the granted funds may be used."

Agreement with Council Positions

In reading the submitted comments, the Council noted there was agreement on some issues from many organizations representing applicants that differ greatly from urban schools. For example, most of the comments, such as those from the Wisconsin Department of Public Instruction and the Utah Education Network – representing particularly non-urban areas – agree that removing the technology planning requirements is important for all applicants. These entities stated that retaining different requirements for large applications create an unnecessary exception that does not lead to the necessary program simplification, and that existing non-E-Rate planning requirements were sufficient for those that must meet them.

We also noted with interest the request from the Utah Education Network which, similar to the Council's original comments, asked that the major changes sought by the Commission be considered carefully and phased in over an extended period of time. Utah stated that, "…we must propose that this re-prioritization be done over a period of time that would allow the eligible entities in our state and across the nation time to plan, procure, and transition their basic telecommunications to more advanced voice services that are delivered via broadband. We propose that this transition timeline be adopted and spelled out in the Eligible Services List each year until these basic services are no longer relevant, perhaps over a three to five year period. The cost-effectiveness and other benefits of these advanced services would eventually be realized while avoiding the shock to those still needing support for these basic services. The neediest of our applicants in Utah are now quite dependent upon support for these basic services."

There was also agreement on some, but not all, of our positions from private sector companies such as Verizon. In a broad statement, the company said, "…the Commission should avoid straying from the fundamental purpose of the program, which is to help schools and libraries get connected and stay connected. Sweeping changes to E-rate are not necessary." This is very similar to the comments originally submitted by the Council, which said that the Commission must, "…find ways to meet the nation's most pressing needs without disrupting service to classrooms and without subverting the original intent of the highly successful E-Rate program." Verizon came to another conclusion which the Council has continually stated: similar to other federal education programs, the need and demand for E-rate reimbursements will always exceed

the amount of funding, and the fact that, "the most needy schools and libraries (those with the highest discount percentages)…collectively, receive hundreds of millions of dollars annually in internal connections support…is a fair policy trade-off."

<u>Areas of Disagreement</u>

As we have stated repeated in our original comments and this submission, we continue to disagree with statements such as those from the State E-Rate Coordinators Alliance (SECA), which disregard the harm that changes to the discount calculation and discount rate would impose on the poorest schools. In discussing the requirement to use a single, districtwide average to determine one discount rate for an entire school district, SECA stated, "Though there may be specific instances where this change results is a lower discount for certain entities, by and large the impact of this specific proposal has been determined to be negligible."

The fourth largest school district in the nation, the Miami-Dade County Public Schools, however, commented on the great damage that would be done with such a change. "Under this proposal, M-DCPS would never qualify for discounts greater than the 80% E-rate funding level. The incentive to support our schools at the highest level possible would be mitigated and only serve to squelch the individual school's ability to seek the best technology possible for its students." Specifically, 58% of all schools in Miami are eligible for the 90% discount under existing rules, including 26 schools that did not qualify for the highest discount level last year, but experienced an increase in numbers of poor students this year, raising them to 90%. All of these 90% schools, approximately 3 out of every 5 schools in the district, could not be targeted for support under a new requirement.

A similar situation exists in New York City, which operates the nation's largest school district. According to comments from the New York City Department of Education, "Currently almost 60% of the NYC schools are eligible for a 90% E-rate discount. However, the NYC citywide discount rate when calculated by total students would equal only 80%. Since the 80% discount level historically is not approved for funding, we could have a situation where we move from 60% of schools getting internal connections to none being approved." The schools that comprise these 60% in New York City are not located in downtown Manhattan, but in neighborhoods throughout the five boroughs that comprise the single school district, including Harlem, Bedford Stuyvesant (Brooklyn), Washington Heights (Bronx), and Far Rockaway (Queens). Eliminating the targeted support for these locations will result in shutting off reimbursements for some of the poorest and most diverse areas of the country. The impact will not be "negligible."

In their comments, SECA also proposed lowering the maximum discount to 70%, "…thereby requiring an applicant to contribute more of the applicant's own funds. SECA asserts that requiring more 'skin in the game' will help curb waste, fraud and abuse." This particular statement – regarding fraud – has been included in multiple comments of theirs over many years, and it is no more true today than it has been in the past. There has been no link between the discount a district pays due to its level of poverty and the harmful actions of individuals. It is also important to note that while instances of fraud, waste, and abuse are unacceptable, they

involved vendors and applicants at all levels of discount, and represent a miniscule portion of the billions of dollars that have been paid to legitimate requests.

We repeat our strenuous objection to increasing the amount of funding that school districts would have to pay to leverage E-Rate support. In the best of times, funding in urban school districts is tight and every dollar counts. The current economic crisis is the worst that many districts have experienced, with lost revenue and budget cuts totaling hundreds of millions of dollars in some districts. A recent study of the Council's urban school districts found that at least $4 billion in revenue and 44,000 jobs would be eliminated in the upcoming 2010-11 school year. This is certainly not the environment to experiment with increased financial demands from school districts.

Allow, But Do Not Require, A Districtwide Discount Calculation

The Council would like to repeat and clarify the position we submitted on the districtwide discount calculation. We do not oppose the introduction of the new calculation, which we agree will be helpful for most applicants and the Administrator. Our recommendation is that the Commission allow applicants to choose one of two methods to determine their discount: they can continue to use the existing method or they can use the newly proposed districtwide approach. Because of the severe harm this would cause to districts with the nation's highest poverty schools, this new option should not be required for all applicants.

Some urban school districts may decide that the potential benefits of the new discount calculation are worth the change, and would make adjustments in order to serve their highest poverty schools. Other inner-city districts may have no other options, and rather than sacrifice their highest poverty schools as a result of the average, should be allowed to target these sites through the existing and lengthier application process. As we wrote in our initial comments, this approach will help the program to reduce the number of overall applications, but will not eliminate the benefit of E-Rate for the highest poverty schools and students in large districts.

A Unified Education Community

The Commission has received hundreds of comments on the different rulemaking proceedings regarding E-Rate this year. We think it is important, in our final note in these reply comments, to point out a significant detail which must not be overlooked by the Commission: there was essentially unanimous agreement from the education community regarding the actions that should be taken.

As you know, policy discussions regarding education involve multiple factors, factions, and perspectives. The individual members of the education community represent different interests, positions, geographic locations and locales, governance structures, incomes, and sectors that reflect the size and diversity of the nation. Despite this variety of perspective, comments from the Council, AASA, and EdLinC –organizations which represent entire school districts and not merely individuals, departments or technology consultants – were all aligned in their comments.

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The EdLinC coalition includes nationwide members that represent school districts, as well as libraries, state education commissioners, principals, teacher unions, school boards, and private schools. The American Association of School Administrators represent more than 13,000 public school superintendents and local educational leaders, most of which are located in the nation's rural and suburban school systems. And the Council's members are the nation's largest urban school districts. Agreement among all of these groups is notable and unique.

The areas in which our groups agreed was significant and widespread. Regarding lowering the discount matrix and requiring applicants to pay a greater share of project costs, EdLinC said, "While we understand and support the goal of making priority two services more widely available, EdLiNC simply cannot support driving down the priority two funding level on the backs of schools and libraries already suffering during this protracted economic downturn." We shared the exact same sentiment in our original comments and this reply submission.

The Council offered a compromise solution discussed earlier, but still agree with AASA's position regarding the required districtwide discount calculation, which would, "…adversely affect low-income schools in large or county-wide school districts by lowering their discount rate percentages…[Maintaining the current method] will help ensure that E-Rate discounts are targeted to the right school populations without penalizing school districts based on size or whether their state organizes them contiguous to county borders."

We also noted agreement on the opposition of funding caps; interestingly, opposition from AASA and EdLinC was due to many of the same reasons the Council opposes them. "EdLiNC opposes per-student based funding because such a mechanism ignores high cost of service factors prevalent in rural and outlying areas. Awarding E-rate support based on student population would cause significant harm to the numerous small and rural school districts who, because of location and geography, are subject to disproportionately higher connectivity costs." If this proposal is not supported in small and rural districts, and is not supported by large and urban school districts, the Commission should consider which type of applicant would truly benefit.

Finally, there was widespread agreement in support of funding for Basic Maintenance. AASA pointed out that rural schools in remote locations can save money with negotiated maintenance contracts, as opposed to the high cost of paying time and travel expenses after each breakdown or service disruption. And the general theme of reimbursing these costs was shared by all, which is that maintenance is essential and encourages applicants to extend the effective use of purchased equipment and the established networks, and the intent of E-Rate will not continue if connectivity in the schools cannot be preserved.

Conclusion

The Council continues to work with the Commission to seek solutions that address the E-Rate deficiencies, but still urges caution with regard to proposals that will limit or restrict reimbursements to our nation's neediest schools. If funding is diluted to a point where technology services cannot be maintained and must be reduced because costs exceed the ability to pay, we will significantly set back the progress made during this last decade for schools across the country. This position was stated best in the comments from the New York City Department of Education, "When teachers and students can no longer rely on their classroom technology and consistent access to the Internet, they will be forced to revert back to the 'old' ways…[and] all the effort put into 're-engineering' teaching and learning will be lost."

Respectfully submitted,

Michael Casserly, Executive Director
Council of the Great City Schools

Address:
Council of the Great City Schools
1301 Pennsylvania Avenue, NW
Suite 702
Washington, DC 20004
(202) 393-2427 (phone)